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# INSTRUCTIONS

PREPARED AND DISTRIBUTED BY THE STATE  
SCHOOL COMMISSIONER OF GEOR-  
GIA, IN APRIL, 1878.

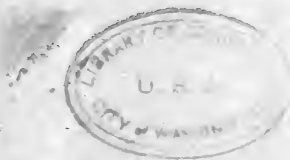
FOR DISTRIBUTION TO SCHOOL OFFICERS  
AND TEACHERS.

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# INSTRUCTIONS

TO

COUNTY SCHOOL OFFICERS AND TEACHERS.

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## COUNTY BOARDS OF EDUCATION.

I. County Boards are elected by the grand jury, and must be composed of freeholders. Vacancies in the Board are temporarily filled by the Judges of the Superior Court. The evidence of election, or appointment, required, is the certificate of the Clerk of the Superior Court, under seal. This evidence must be sent to this Department, and, until it is received, the Governor cannot issue commissions. Members of a County Board may be removed by the Judge of the Superior Court, on address of two-thirds of the grand jury, for inefficiency, incapacity, general neglect of duty, or malfeasance or corruption in office.

The term of members of the County Boards of Education is four years. At the first election, three members were chosen for two years, and two for four, as required by law. This was in 1872. Consequently, the term of office of three members of each Board in the State expired in the year 1874. In every such case, the grand jury, at the term of court *corresponding to that at which the first election occurred*, should have chosen their successors for the full term of four years. In many cases this was not done at the proper time; and, in a few counties, even now, the Board consists of the original members. In some of these counties, successors to those whose terms have expired may have been chosen; but if so, their election has never been reported to this office in the manner required by law, and they hold no commission. I hereby instruct the County School Commissioners to inquire into this matter, and to report to this office the name or names of any member or members so chosen but not commissioned. Whenever the time for the election of a member of the Board has passed, and no elec-

tion has taken place, and subsequently an election has been held, the person so elected will hold his office *for the remainder of the full term only*.

In this connection, I call the attention of County School Commissioners, and, through them, of the grand juries, to the fact that the term of office of the two members of their respective County Boards, chosen at the first election for four years, expired in 1876. At the term of court of that year, corresponding to that at which the first election was held, their successors ought to have been chosen. If this has never been done up to the present date, the matter should still be attended to at the very first term of the court held.

The certificate of the election of members of the County Boards must have the following requisites:

1. It must be officially signed by the Clerk of the Superior Court, and must be under his seal of office.
2. It must give the names of the members of the Board chosen, and must state whom they succeed.
3. It must state *how* the latter vacated their offices.
4. It must state the term of the court at which the action was taken.

When a vacancy is filled by the Judge of the Superior Court, the above rules will apply to the certificate then given, except where, from the nature of the case, they are inapplicable. (Section 13, act of August 23, 1872.)

As applicable to the present subject, I think it proper to add the following instructions, based upon provisions of the Code:

When a member of a county Board desires to resign, he should tender his resignation to the Governor, and *not to the board, or grand jury*. (Section 137, Code of 1873.)

A member of a Board cannot perform any official duty until he takes the oath prescribed by law. If he does, he is liable to a fine of not less than two hundred dollars. (Section 146, Code of 1873.)

Members of the County Board hold their offices until their successors are chosen and qualified. (Section 132, Code of 1873.)

The office of member of the County Board of Education may be vacated in seven ways; first, by death; second, by resignation; third, by decision of a competent tribunal; fourth, by becoming ineligible; fifth, by removing from the State or county; sixth, by failure to apply for and obtain commissions, or by failure to qualify and give bond, or

both, within the time prescribed by law; seventh, by abandoning the office, or ceasing to perform its duties. (Section 135, Code of 1873.)

#### DUTIES OF COUNTY BOARDS.

2. County Boards are required to take bond of the County School Commissioner, with good security, for the faithful performance of his duty; and the Board is made the judge of the amount of the bond, and the sufficiency of the security (Section 13, act of August 23, 1872.)

Boards should be very careful in the performance of this duty, and see to it that the school fund is amply secured.

3. County Boards are required to meet the first Tuesday of the month succeeding that of their election, or as soon thereafter as practicable, at the court-house, and organize by electing one of their own number President, and a Secretary, which last named officer shall be the County School Commissioner. The County School Commissioner may, or may not, be a member of the Board. A majority of the Board constitutes a quorum. (Section 14, act of August 23, 1872.)

4. It is the duty of the County Board to hold regular sessions on the first Tuesday of the month succeeding their election, and each three months thereafter. The only compensation they receive for their services is exemption from road, jury and militia duty. (Section 15, act of August 23, 1872.)

The conferring of the power to hold a called meeting for a particular purpose, in this section, might seem to exclude the general power of holding called meetings, and this view has been taken by some. I am not, however, of that opinion. The law when on its passage in the shape of a bill, contained a clause providing for a money compensation to members of the Board at regular meetings, and mention of a particular called meeting seemed to be made simply for the purpose of giving the same compensation at that meeting. The money compensation was changed, and the section left in such form, on its adoption, as to raise a doubt in the minds of some about the power of holding other called meetings. In view of the fact that Boards in general, have the power of holding called meetings, unless such meetings are forbidden, and the further fact that, in section 20, the County Board is empowered to perform a certain duty at any meeting, "regular or called," I hold

that such called meetings as the Board may think necessary are clearly legal.

5. The County Boards are required to lay off their counties into sub-districts, and they are empowered to alter the boundaries of those already laid off, whenever the public necessities may require. In performing this duty, they may adopt the militia districts, or make such other subdivisions as, in their discretion, may seem best.

This section also imposes upon the Board the duty of locating schools. In many places, schools have been needlessly multiplied. In all such places, by reducing their number, the schools may be made better, and money may be saved. I charge the Boards to look well to this matter.

The Boards are also to employ teachers, the contracts with whom *must be in writing, signed in duplicate, by the teacher in his own behalf, and by the County School Commissioner in behalf of the Board.* A man who simply teaches a school has no right to compensation out of the public fund. In order to be entitled to that kind of compensation, he must teach under a written contract with the Board—a contract having all the characteristics above set forth.

The power to contract with teachers, which resides in the Board, carries with it the right to pay them more or less, according to the grade of qualifications exhibited. I instruct the Boards to make discriminations of this kind wherever they believe the interests of the public will be promoted thereby.

Forms for contracts between the teacher and the Board, and for supplemental contracts between the teacher and his patrons, will be prepared and distributed. (Section 16, act of August 23, 1872.)

5a. In employing teachers for any sub-district, Boards are required by law to choose the persons recommended by the School Trustees of said sub-district, provided these persons shall be duly qualified and eligible, according to law. The Boards must see to it, that the persons chosen as teachers *are* duly qualified and eligible. (Section 2, act of February 22, 1877.)

6. County Boards are to purchase, rent, or lease school-sites; to build, repair, or rent school-houses; to purchase maps, globes, and school-furniture; and in them vests the title to all school property, whether real or personal, and to them belongs the custody, oversight and control of the same. (Section 17, act of August 23, 1873.)

A section giving the County Boards the power to author-



ize the levy of a local tax for the purposes above mentioned and for establishing higher schools, as provided in section 16, and prescribing the manner in which the power was to be exercised, was lost when the act of August 23, 1873 was on its passage. Subsequent efforts to confer the same power have been likewise defeated. I hold, therefore, that while the power of taxation is mentioned in the concluding paragraph of the 17th section, the general way in which it is mentioned, and successive defeats of a well-defined power of that kind, clearly show that it was not the intention of the law-makers that it should be exercised.

Wherever houses are needed, and friends of the public schools can be found who are willing to donate sites, I advise County Boards to accept the same; to take titles thereto, and to encourage the people to build suitable houses, either by their own labor or by subscription, as they may elect.

7. County Boards are made a tribunal for hearing and determining any matter of local controversy in reference to the construction and administration of the school law. Their decision is binding on the parties to the controversy; but there is a right of appeal to the State School Commissioner. (Section 18, act of August 23, 1872.)

Persons interested would do well to remember that the decision of local controversies belongs primarily to the County Boards. I refer them to the section of the law now under consideration for the manner in which appeals are to be made.

8. County Boards also prescribe the text-books and books of reference; but the Bible cannot be excluded from the public schools of the State. (Section 19, act of August 23, 1872,)

The proviso to this section, interdicting the exclusion of the Bible from the public schools, is the law in places where local school laws are in operation as well as elsewhere.

9. County Boards grant licenses to teachers, on recommendation of the County School Commissioners, and this may be done at any meeting of the Board, regular or called. (Section 20, act of August 23, 1872.)

10. County Boards hear and determine appeals from teachers whose licenses have been revoked for alleged cause by County School Commissioners. (Section 21, act of August 23, 1872.)

11. All disbursements of school funds to teachers and

others are made only upon order of the County Board. (Sections 22 and 30, act of August 23, 1872.)

12. County Boards are empowered to fix the *per diem* compensation of the County School Commissioner, and are required to determine the number of days in each year which said commissioner may labor in performance of the duties required of him. (Section 23, act of August 23, 1872.)

County Boards may direct the County School Commissioner to visit the schools at such times as they think proper. The commissioner is relieved of the duty of visiting the schools, except at such times as he may be ordered to do so by the Boards. (Section 4, act of February 22, 1877.)

I hereby instruct the Boards to take action upon the matters to which the provisions of law just quoted relate, at the first meeting of each year. The *per diem* of the commissioner will be three dollars, unless the Boards shall order otherwise. They can make it less than that sum, but cannot make it greater. The law also requires the Board to limit the number of days for which the commissioner shall charge for his services. And finally, by the recent provision of law above referred to, the commissioner is relieved of the duty of visiting the schools, unless the Board shall order otherwise. It is clear that these provisions of law put the compensation of the commissioner absolutely and completely in the power of the Boards. County Boards, in disposing of public funds, are in the exercise of a *public trust* for the benefit of the people of the county. That trust should be exercised prudently and wisely, as they would transact business for themselves. County Commissioners ought to be allowed a reasonable time for the discharge of their duties, but should not be allowed to protract that time for their own personal benefit. At every session of the General Assembly, since our school system went into operation, there has been much complaint about what was alleged to be the exorbitant compensation allowed to County School Commissioners. If exorbitant compensation has been allowed in any case, *the Boards of Education are solely responsible for it*. The principle of the law is clearly right. So many things of a local nature affect the value of labor, that it is very evident that the compensation of the County Commissioner ought to be subject to local control. I hereby instruct the boards, wherever the evil of exorbitant compensation exists, *to correct it at once*.

13. County Boards, in certain cases, are required to set off, from the real estate held as school property, a certain portion, not to exceed four acres, which shall be exempt from all taxes, State and county, and from levy and sale. (Section 25, act of August 23, 1872.)

14. County Boards, in order to meet the obvious demands of convenience, may consent to the attendance of children living in one sub-district upon the schools of another; and, in like manner, the County Boards of two adjoining counties may permit the children of one of the counties, residing near the line, to attend the schools of the other. (Section 26, act of August 23, 1872.)

It will be observed that this section requires the *consent* of the Boards, and when teachers admit to their schools children from another sub-district or county, without the consent required by law, they have no claim to compensation for teaching said children.

The Boards have, in some cases, passed a resolution giving general consent for any of the children of their county, living near a county line, to attend the schools of the adjoining county, or for the children of one sub-district of their county to attend the schools of another sub-district. I will not say that this course is illegal. I will say, however, that the spirit and meaning of the law seem to me to require separate action upon each case as exigencies may arise.

I call the attention of the Boards to the further fact that this section requires a teacher, who, by authority, admits children from an adjoining county to his school, to make out two accounts for his services—one against each County Board—in amount proportioned to the number of children in the school from the respective counties. Formerly, it was necessary also to pay a teacher in one sub-district of a county for children coming to his school from another sub-district out of the school fund of that other sub-district. This is no longer required. By the act approved February 25, 1876, a change was made. There will no longer be a sub-district fund, arising from the apportionment of the county fund among the sub-districts. All the teachers of the county will be paid out of the county fund.

15. County Boards may establish evening schools in certain cases. (Section 27, act of August 23, 1872.)

16. County Boards are required to communicate evidence to the State School Commissioner, that arrangements have been made by them for continuing primary

schools in operation for three months of the year, before the County School Commissioner can draw the county's *pro rata* of the school fund. This the Boards will do through the County School Commissioner. (Section 28, act of August 23, 1872.)

This is, perhaps, the most important section of the law. On it the entire school work must depend. By means of well-directed efforts on the part of the County Boards, free schools for three months may be established under it, every year, in every county throughout the entire State. The schools are to be kept up "by taxation or otherwise." The State fund is hardly sufficient to support the schools for three months in any county of the State, and must be supplemented. The policy of doing this by voluntary, self-imposed taxation has been repeatedly defeated in the General Assembly. This supplemental fund, then, must be raised "otherwise" than by taxation. In order for a county to draw the State fund, arrangements must be made to keep up the schools for three months. To do this, as the State fund is insufficient, the patrons must pay in part. In the forms of contract between the teacher and Board, and between the teacher and his patrons, to be distributed from this office, one mode of keeping up the schools for the time required will be fully explained. I recommend this as the very best mode which I have been able to devise. The Boards, however, have great latitude in this matter. They contract with teachers, and the word "otherwise" covers a great deal of ground. If the Boards can find out a better way, they are at liberty to adopt it. Whatever mode they may adopt, *the contracts must be written; the schools must be made free to all; and the State must not be bound for anything more than the teacher's part of the pro rata going to the county.* Disregard of this last will insure an adverse decision on the part of the State School Commissioner upon the claims of any teacher that may be brought in question before him. It will be observed that arrangements must be made to keep up the schools throughout the "entire county" before the county is entitled to draw her part of the public fund. Construing these words in the light of section 16 of the act, I hold that Boards will have complied with the condition contained in them when they have made arrangements for establishing at least one school in each sub-district, requiring them, at the same time, to establish as many as may be necessary to meet the wants of the public, wherever practicable. Boards have the

power, under the 16th section, of altering the boundary lines of sub-districts, and may attach one sub-district, in which it may be impracticable, from any cause, to establish a school, to another in which a school can be put in operation. With the construction of the 28th section, above given, and the ample power of altering boundary lines just mentioned, no county need fail to draw the *pro rata* to which it may be entitled.

As commissioners frequently send forward faulty reports under this section of the law, I suggest the following form as meeting, in full, all legal requirements :

I, \_\_\_\_\_, County School Commissioner of the county of \_\_\_\_\_, do hereby certify that arrangements have been made by the Board of Education of said county for continuing primary schools, free to all, in operation for three months of the present year throughout the entire county, according to section 28, school law of August 23, 1872, and the instructions of the State School Commissioner in relation thereto, \_\_\_\_\_, 187—.

\_\_\_\_\_,  
*County School Commissioner.*

Of course it will be understood that, in a sparsely settled county, or one in which certain portions are sparsely settled, a certificate to the effect that arrangements have been made for two months' free schools, as provided in the 29th section, will entitle the county to draw her part of the fund, and in this case the form above given should be modified accordingly.

In employing teachers, Boards will have the means, through the information in reference to the State fund for this year's work herein communicated, of submitting to each an approximate estimate of the amount he may expect to receive from the State, and they will be expected to give this information, that teachers may avail themselves of it in getting up schools, and making supplemental contracts with their patrons.

I have been frequently asked if a free school, established under this section, must remain free on to the end of the three months' term, even after the public fund is exhausted. It must remain free in one sense: pupils must not be excluded because the public fund is exhausted. Patrons who are able to pay, will be bound by the supplemental contract signed by them, or by the general law of contracts if they

decline to sign, and can be, and ought to be, compelled to pay, if they refuse.

17. In sparsely settled parts of a county, where it is impracticable to make arrangements for keeping up primary schools for three months of the year, Boards of Education may establish schools for two months. (Section 29, act of August 23, 1872.)

Fifteen is fixed as the *minimum* limit to the number of pupils in these two months schools. In other schools, no *minimum* or *maximum* is fixed by law. This matter is left to the discretion of the Boards, and ought to be decided as the interests of the community served may dictate.

18. County Boards may establish manual labor schools, the plan of organization to be first submitted to, and approved by, the State Board of Education. (Section 32, act of August 23, 1872.)

19. County Boards are forbidden to introduce into the schools books of a sectarian or sectional character. (Section 33, act of August 23, 1872.)

20. The Boards of Education of the several counties are required to pay out the poll tax, without any deduction for fees, or salaries of officers, to the support of common schools in the respective counties where said poll tax was raised. (Section 1, act of February 28, 1874.)

The State Board of Education has decided that the words "without any deduction for fees or salaries of officers," do not apply to Tax Collectors and Receivers of Tax Returns, and that these officers are entitled to their regular commissions on the poll tax.

The Boards will pay out this fund, of course through the County School Commissioners, who are the executive officers of their respective Boards. In other words, the Boards will pass an order for paying out, and the Commissioners will execute the order.

The words, "without deduction for fees, etc.," must not be construed as depriving County School Commissioners, of compensation. The law elsewhere allows them compensation, and there is a fund out of which it can be paid, viz; that annually apportioned to the several counties.

21. Members of the County Boards of Education may administer such oaths as may be necessary in transacting school business, or in conducting investigations before County Boards when sitting as judicial tribunals. (Section 1, act of February 23, 1876.)

22. County Boards are required to appoint three intelli-

gent, upright citizens in each sub-district of their respective counties to act as school trustees for their sub districts, and as vacancies occur from whatever cause, these vacancies are to be filled by the Boards. (Section 1, act of February 22, 1877.)

#### COUNTY SCHOOL COMMISSIONER.

23. The County School Commissioner is elected by the County Board of Education, and may be chosen from their own body, or from among other citizens of the county. (Section 13, act of August 23, 1872)

The legal evidence of the election of this officer is the certificate of the Secretary *pro tem.* of the meeting at which the election takes place.

A County School Commissioner may be removed from office by the Judge of the Superior Court, on address of two-thirds of the grand jury, for inefficiency, incapacity, general neglect of duty, or malfeasance or corruption in office.

The term of office of the County School Commissioners expired in the year 1876, they having been chosen in 1872 for four years. It may be that, in some cases, successors to the original Commissioners have not yet been chosen. If so, let this duty be performed at the first meeting of the Board.

Certain instructions applying to members of the Boards, and based upon provisions of the Code, were given in the first article of this pamphlet. I repeat them here, because they also apply to County School Commissioners.

When a County School Commissioner desires to resign, he should tender his resignation to the Governor, and *not to the Board, or grand jury.* (Section 137, Code of 1873.)

A County School Commissioner cannot perform any official duty without taking the oath prescribed by law. If he does, he is liable to a fine of not less than two hundred dollars. (Section 146, Code of 1873.)

If a County School Commissioner performs any official act before his bond is approved and filed, as required by law, he is liable to a fine of not less than five hundred dollars. (Section 156, Code of 1873.)

County School Commissioners hold their offices until their successors are chosen and qualified. (Section 132, Code of 1873.)

The office of County School Commissioner may be vacated in the same seven ways by which the office of mem-

ber of the Board may be made vacant. These ways are pointed out in the first article of this pamphlet.

#### COMPENSATION.

24. The County School Commissioner is to receive, for each day actually employed in the discharge of his official duties, a *per diem* compensation not to exceed three dollars, to be determined by the County Board. (Section 23, act of August 23, 1872.)

For full instructions as to the Commissioner's compensation I refer to article 12, of this pamphlet.

The second proviso to the section above referred to gives the Commissioner the right, in a certain contingency, to receive compensation at the State treasury. As there has been some misapprehension in reference to the meaning of this proviso, the State School Commissioner thinks that an official construction is necessary. The school law of January 19, 1872, required the compensation of the County School Commissioner "*to be paid out of the educational fund furnished the county.*" (See section 25.) It was held that, under section 30 of the same law, a county was not entitled to receive its *pro rata*, if there was a failure on the part of the Board to make provision for continuing the schools for six months of the year. The County Commissioner would thus have been deprived, in case of said failure, of all compensation for any absolutely necessary labor he may have performed. The proviso in question was inserted in the new law to remedy this evil, inasmuch as by the 28th section of that law, it was still possible for a county to fail to receive her *pro rata*. It will be seen, then, that in order to make the proviso available for the benefit of a County Commissioner, there must have been an apportionment and general distribution of State school funds, from participation in which his county has been excluded by failure to establish schools the length of time required by law, now changed to three months. County Commissioners will be entitled to compensation at the State treasury only when the state of facts contemplated in the proviso really exists.

#### DUTIES.

25. The County School Commissioner is required to keep a record of the proceedings of the County Board. This record is declared by law, to be a public record, open to the inspection of any person interested therein, (sections 5 and 14, act of August 23, 1872.)

The book necessary for this purpose, and that required to



be kept by the County Commissioners, in section 22, and any stationery that may be necessary, must be paid for out of the county's *pro rata* of the school fund. The law does not expressly so provide, but the State School Commissioner feels authorized to give this instruction.

26. The County School Commissioners signs, in behalf of the County Board, the contracts made by them with teachers, (section 16, act of August 23, 1872.)

These contracts are to be signed in duplicate. One copy must be placed on file by the Commissioner, and the other given to the teacher.

27. Appeals from the County Boards to the State School Commissioner, and from the State School Commissioner to the State Board, are made through the County Commissioner. (Sections 18, 5 and 6, act of August 23, 1872.)

28. The County School Commissioner examines applicants for license to teach. (Section 20, act of August 23, 1872.)

The subjects to be examined upon, are Orthography, Reading, Writing, English Grammar, Geography, and Arithmetic. I recommend that Commissioners, in conducting these examinations, use a scale ranging from one to ten; and that the examinations be conducted in writing as far as practicable. I give the following rule for determining the standing of the applicant. Represent the standing upon each of the legal studies by one of the numbers of the scale, add together these numbers and divide the sum by the number of studies, and the quotient will represent the average standing. To illustrate: suppose the numbers be as follows: Orthography 8, Reading 10, Writing 7, English Grammar 9, Geography 6, and Arithmetic 10; the sum of these numbers is 50; the number of studies 6, and the quotient of the former divided by the latter  $8\frac{1}{3}$ , which represents the average standing. When the average standing of the applicant is between 9 and 10, let him be recommended for a license of the third grade; when it is between  $7\frac{1}{2}$  and 9, let the recommendation be for the second grade; and for the first grade when the standing is between 6 and  $7\frac{1}{2}$ . The average of qualifications among teachers is such, at present, that I do not require rigid conformity to the foregoing instructions in reference to examinations and grading, but prefer to leave the subject with these recommendations, to the exercise of a wise discretion on the part of the Commissioners and Boards. The time has arrived,

however, in my judgment for becoming more rigid. Blanks for teachers' licenses will be prepared and distributed.

29. The County School Commissioner is required to revoke licenses granted by him, or his predecessors, to teachers, for incompetency, immorality, cruelty to pupils, or general neglect of duty; but, in every such case, the teacher may appeal to the County Board. (Sec 21, act of August 23, 1872.)

30. The County School Commissioner is the medium of communication between the State School Commissioner and the subordinate school officers; is required to visit the schools when ordered by the Board, and only when so ordered; must take the enumeration of the school population every four years; is to report the statistics of schools, both public and private, and of colleges, (blanks for this purpose will be prepared and distributed); is made the agent of the County Board in procuring school furniture, etc., (a provision which is rendered nugatory by the failure, in the passage of the law, of that section of the bill which was intended to provide the means); audits the accounts of teachers, and is required to keep a book for recording his official acts. (Sec. 22, act of August 23, 1872; act of March 2, 1874; and sec. 4, act of February 22, 1877.)

A wish to economize the fund, or other sufficient reason, may lead the Commissioner to prefer to employ some one else to take the enumeration return. If he can employ a *competent, trustworthy* person, one who is acceptable to the Board of Education, I hold that he is at liberty to do so. It will be remembered, however, that the Commissioner is responsible for the work, and he will be so held.

31. The County School Commissioner is made the custodian of the school fund of the county. (Sections 8 and 30, act of August 23, 1872.)

He receives the poll tax collected in his county from the Tax Collector. (Sec. 1, act of February 27, 1874.)

He must give the Tax Collector a receipt for the sum thus received, for the protection of the latter officer in his settlement with the Comptroller General.

When the schools of the county are within three weeks of closing, it is the duty of the County School Commissioner to give notice of that fact to the State School Commissioner, who is thereupon required to send an order on the Tax Collector for the quota of the public school fund

apportioned to the county to the County School Commissioner. (Section 1, act of February 26, 1875.)

The poll tax and the proceeds of the order just mentioned, constitute the fund which passes into the hands of the County School Commissioner.

32. County School Commissioners are empowered to administer such oaths as may be necessary in transacting school business, or in conducting investigations before County Boards when sitting as judicial tribunals. Section 1, act of February 23, 1876,)

33. County School Commissioners are required to record the fact of the election of School Trustees for the sub-districts in the minutes of the County Boards, and to furnish the persons so elected certificates of their election. (Section 1, act of February 22, 1877.)

These certificates should state the date of the election and the term for which the person has been elected, in order that the time when the term expires may be known from the face of the certificate.

34. It is the duty of the County School Commissioner to make a report of the school operations of the preceding year to the grand jury at the spring term of the Superior Court, and to place his books before them for examination. (Act of February 21, 1877.)

This report should embrace full statistics of the schools; such as the number of pupils of each race, the number of schools established for each of the races, the amount of funds received, an itemized statement of expenditures and any other facts likely to throw light upon the school operations of the county,

#### SCHOOL TRUSTEES.

35. Three school trustees are appointed by the Board of Education for each sub-district of the county. The term of office is three years, commencing with the date of appointment. When the appointment is first made, one of the appointees is appointed for one year; one, for two; and one, for three. By this arrangement one new Trustee will come into office each year. Vacancies are filled by the Board, (Section 1, act of February 21, 1877.)

36. It is the duty of the Trustees to supervise the school operations of their sub-districts, to visit the schools and to make such recommendations to the County Board in relation to the school interests of their sub-districts, as may seem to them best.

When teachers are chosen for their sub-districts by the Board, it is the right of the Trustees to recommend applicants, and it is the duty of the Board to choose, as teachers, the persons so recommended, provided these persons can stand the examination required by law, and can produce satisfactory evidence of good moral character. The Trustees are also required, in recommending applicants for teachers' places, to give their recommendation to the persons who are the choice of the communities to be served.

It is also the duty of the Trustees to make a written report, in relation to the matters committed to their supervision, to the County Board, at least, once a year, and oftener, if the Boards so order. (Section 2, act of February 22, 1877.

#### DUTY OF TEACHERS.

37. Teachers are required to report to the County School Commissioner the number of children admitted into school, the average attendance, the branches taught, the number of pupils engaged in the study of each branch, and such other statistics as may be required; and, until said report is made, the County Commissioner cannot audit the account of the teacher for services. (Section 24, act of August 23, 1872.)

Proper blanks for this report will be furnished.

Teachers, as soon as they open school, should have an eye to these duties. They ought, at once, to procure or make a book for the purpose of recording the foregoing particulars. Especially ought the names of all the pupils to be entered, and a full and complete register of attendance to be kept. A little instruction as to the mode of obtaining the average attendance may be necessary. This can best be given by means of an example. Suppose a certain school is opened for the months of April, May and June; and, to simplify, we will suppose that the whole number of pupils that enter is six. The whole number of school days in the months mentioned is sixty-five; to make a full attendance of six pupils, it would be necessary for each pupil to attend all of the sixty-five days; the truth of the case, however, is that the first attends sixty-five days; the second, sixty; the third, fifty-five; the fourth, fifty-three; the fifth, forty-two; and the sixth, thirty. On adding these numbers together, the sum is found to be three hundred and five, which, being divided by sixty-five, the number constituting full attendance, gives a quotient of 4 9-13 which is the average attendance. That is, though six

pupils were admitted, the average attendance of the six is only 4 9-13 pupils.

When the County School Commissioner consolidates the reports of the teachers of the county, it will only be necessary for him to add all the numbers representing average attendance, in the several reports of the respective teachers, and this will give the average attendance for the county.

In making out their accounts, teachers must charge only for the average number of pupils. Blanks for teachers' accounts will be furnished.

#### GRAND JURIES.

38. It is the duty of grand juries to elect members of the Board of Education. Whenever vacancies in the Board occur it is the duty of the jury promptly to fill those vacancies. (Section 13, act of August 23, 1872.)

In electing members of the Board, the jury should embrace in their presentment the following particulars: (1) They should state correctly the names of the members chosen. (2) They should state whom each newly chosen member succeeds. (3) They should state how the vacancy occurred; whether by expiration of the term, by death, by resignation, or otherwise.

The grand jury may secure the removal from office of any member of the Board of Education, or of the County School Commissioner, for inefficiency, incapacity, general neglect of duty, or malfeasance, or corruption in office. This is done by address of two-thirds of the jury to the Judge of the Superior Court, who is thereupon bound to make the removal. (Same section of the law as above.)

The interests committed to Boards of Education and County School Commissioners are too sacred to be left in improper hands. Whenever satisfactory evidence of the existence of any of the above-mentioned causes of removal has been submitted in a given case, it is the duty of the jury promptly to recommend removal.

It is further the duty of the grand jury, at the spring term of the Superior Court, to examine the books of the County School Commissioner, and the report of the school operations of the preceding year submitted by him, and to take proper notice in their general presentments, of the matters thus brought to their attention. (Act of February 21, 1877.)

I would also refer grand juries to the instructions appli-

cable to "An act to provide for the payment of the claims of school officers and teachers, for services rendered in the year 1871," approved March 3, 1874, Art. 44 of this pamphlet, for the duties imposed upon them by that act.

#### CLERKS OF THE SUPERIOR COURT.

39. It is made the duty of the Clerk of the Superior Court, whenever members of the County Board of Education are elected, or appointed, to forward to the State School Commissioner a certified statement of the facts, under the seal of the court, and signed officially by him. (Sec. 13, act of August 23, 1872.)

#### TAX COLLECTORS.

40. It is the duty of the Tax Collectors of this State to pay over the poll tax to the County School Commissioners of their respective counties. (Act of February 28, 1874.)

For the decision of the State Board in respect to the words, "without any deduction for fees, or salaries of officers," occurring in this act, see Article 20, of this pamphlet.

At the time of the apportionment of the State school fund, notice of the amount apportioned to each county is to be sent by the State School Commissioner to the Tax Collector of the county; and it is made the duty of the latter to *retain in his hands, of the taxes first collected*, a sufficient amount to pay the county's quota, and to pay the same to the County School Commissioner immediately on presentation of an order for the same from the State School Commissioner. (Sec. 2, act of February 26, 1875.)

#### APPEALS.

41. There may be an appeal upon any question touching the construction or administration of the school laws from the decision of the State School Commissioner to the State Board of Education. (Sec. 5, act of August 23, 1872.)

There may be an appeal from the State School Commissioner to the State Board of Education on instructions issued by the Commissioner. If no appeal is taken, the instructions are binding. (Sec. 6, act of August 23, 1872.)

There is an appeal from the County Board of Education, on matters of local controversy in reference to the construction or administration of the school law, to the State School Commissioner. (Sec. 18, act of August 23, 1872.)

#### MISCELLANEOUS.

42. The white and colored races cannot be taught to-

gether in the same school. (Secs. 17 and 26, act of August 23, 1872.)

As far as practicable, the same facilities must be afforded to both races.

43, The chief executive officer of a local school organization under a special law is bound to make the same regular reports to the State School Commissioner as are required from the County Commissioners.

The schools established under local laws are under the supervision of the State School Commissioner, and all the provisions of the general school laws in reference to appeals from the local school authorities, are of force in cities and counties under local school laws. (Sec. 34, act of August 23, 1872.)

Instructions applicable to "An act to provide for the payment of the claims of school officers and teachers, for services rendered in the year 1871," approved March 3, 1874.

44. This act appropriates the school fund in the Treasury at the time of the several apportionments, to the payment of the school debt of 1871, till said debt is fully paid. There is no limitation fixed to the operation of the act. It will remain of force until the debt is paid, or till the law is repealed. It is the duty of the County School Commissioners to continue to pay out the school fund apportioned to their counties on this debt, till the whole debt is paid. No power can alter or modify this duty except the grand jury. The grand jury, and the grand jury alone, has the power to arrest the application of the fund to the payment of the debt of 1871. By the first proviso to the third section of the act, they may recommend the levy of a tax, not to exceed twenty-five per cent. on the State tax, to be used instead of the school fund, or in supplement of that fund, for paying the debt of 1871. Should they wish a tax levied to be used instead of the school fund, their presentment should be in the following form: *We, the grand jury of—county, recommend that a tax of — per cent. upon the State tax be levied, to be used instead of the school fund for paying the school debt of 1871.* Under this action the Ordinary or County Commissioners will be compelled to levy the tax, the proceeds of which will go to paying the debt of 1871; while the school fund apportioned to the county will go to the support of schools.

If the jury wish a tax levied to be used in supplement of the school fund for paying the debt of 1871, they should recommend as follows: *We, the grand jury of — county, recommend that a tax of — per cent. on the State tax be levied to be used in supplement of the school fund for paying the school debt of 1871.*

The force of this action will be to apply the whole of the school fund, and all of the fund raised by the tax, to the payment of the debt of 1871.

If the jury do not desire to authorize the levy of a tax, and are unwilling to see the school fund applied to the payment of the debt of 1871, they should recommend as follows: *We, the grand jury of — county, recommend that the provisions of an act entitled "An act to provide for the payment of the claims of school officers, and teachers for services rendered in the year 1871, approved March 3, 1874, shall not apply or operate in the county of —.*

The authority for this action is found in the fourth proviso to the third section of the act; and whenever this action, or action equivalent to it, is taken, it kills the act, so far as that county is concerned; the debt of 1871 is left unpaid, and the school fund apportioned to the county continues to go to the support of schools. A grand jury can do any one of the three things above set forth; and this exhausts their power over the subject. There is nothing else that they can do. If they fail to act upon the subject *non action leaves the appropriating provisions of the act in full force, and the school fund apportioned to the county can be applied only to the payment of the debt of 1871.*

County School Commissioners will observe that this act appropriates *only the school fund apportioned to the counties* to the payment of the debt of 1871. The poll tax is retained in the counties, and does not constitute any portion of the fund apportioned, and can be applied, consequently, only to the support of schools.

This act requires an apportionment of the school fund to be made every six months. An act passed at a recent session of the General Assembly changes the mode of disbursing the school fund to the counties. By this last named act, the quotas of the several counties are to be paid to the County School Commissioners in orders on the Tax Collectors. No apportionment will, therefore, be made until the regular time in July, as the money cannot be realized on these orders till the taxes are collected in the fall.

The second proviso to the third section of the act re-



quires the different County Boards of Education to scale the accounts of teachers and County School Commissioners for services rendered in 1871, whenever they shall deem these accounts unreasonable.

Wherever Boards have failed to perform this duty, they are still under obligations to perform it. The law is mandatory, leaving no option to the Boards.

The third proviso to this section is ambiguous. The act was passed to provide for paying the debt due to teachers and school officers. There is nothing in it which requires refunding to patrons any amounts they may have paid to teachers. I have held, therefore, that the intention of the proviso was simply to prevent the refunding to patrons. Whatever patrons may have paid must be considered as so much paid on the claim, leaving only the unpaid balance to be provided for. If, in any county, all the teachers have been paid by their patrons, then the Commissioner alone is entitled to compensation. If some of the teachers have been paid, and others have received no pay from patrons, then the Commissioner and the unpaid teachers will be entitled to compensation. As stated above, there is ambiguity about the proviso. I have held as above set forth, and will continue so to hold till reversed.

This act, as long as it continues in force, will throw uncertainty over the amount of school fund at the disposal of County Boards for the support of schools. No one can tell with any certainty, what the fund for supporting schools will be until the grand jury has taken action. This uncertainty should be explained to teachers when they are employed, to prevent dissatisfaction at the time of settlement. Let teachers make supplemental contracts with their patrons according to the prescribed forms.

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Instructions applicable to "An Act to change and regulate the school system in the counties of Ware, Echols, Lowndes, Berrien, Charlton, Dodge, and Clinch, in certain particulars," approved February 15, 1877.

45. It has not been my custom to have local school laws published in the pamphlet of school laws usually distributed, or to write instructions applicable to such laws. As the Act, bearing the title given above, is to operate in seven counties, I have determined to depart from the custom, so far as the preparing of instructions is concerned.

The first section of this Act provides that the County

School Commissioners of the several counties to which the Act applies shall not be required to visit the schools, or be entitled to receive compensation therefor. They are to appoint three competent persons in each school district, who shall visit and examine all the schools in their respective districts, and report to the Commissioner of the county the order, standing and condition of said schools; and, as compensation for these services, they are to be exempt from road and jury duty.

It will be observed that the provisions of this section are similar, in some respects, to those of the general Act, providing for School Trustees, approved February 22, 1877. The latter differs from the former in these particulars: Under the latter, the Board appoints the Trustees; the Trustees report to the Board; the Trustees receive no compensation; and, lastly, the Trustees serve for a definite, fixed term. In the section we are considering, as no term of service is fixed, it will be difficult to tell when the functions of the persons appointed by the Commissioners will cease.

46. Section 2 makes it the duty of the County Commissioner to apportion the school fund of the county among the school districts in proportion to the number of children of school age in each.

This simply restores a provision of the Act of August 23, 1872, repealed by the Act of February 26, 1876.

The section under consideration further provides that the County Commissioner shall keep the fund of any district, after the appointment has been made, "until all the children of said district entitled to said school fund shall receive their proportion of instruction in said schools."

This portion of the law will necessarily be inoperative. *All* the children entitled to the benefits of the fund will not be likely to attend school any year. The practical effect, therefore, of attempting to carry out this requirement, would be to leave the funds in the hands of the Commissioner *in perpetuo*. I, therefore, instruct the Commissioners to put schools in operation and pay out the fund as heretofore, under the provisions of the general school law.

47. Section 3 makes it the duty of the County Commissioner to require all teachers, expecting to receive any portion of the school fund, to keep a correct account of the number of days each child is taught, and said teachers are to be paid only for the time actually taught, in proportion to the price for the quarter.

I must construe the words, "teachers, expecting to receive any portion of the school fund," to mean, teachers who have been employed by the County Board to teach a *public school*. This Act does not repeal that part of the general law which gives Boards the right to employ teachers; and, consequently, none others than teachers thus employed can expect any portion of the school fund.

To keep an account of the time taught, and to receive pay only for the time pupils are taught, are merely requirements of the general school law, of force throughout the entire State.

As to the other portion of this section, which authorizes the County Commissioner "to pay for any number of scholars that may have been taught, or for any length of time, out of the school funds of said district," I shall give no instruction, as I am somewhat at a loss to know the meaning intended.

48. The fourth section makes it the duty of the County School Commissioner to examine all applicants for license to teach, and to give said applicants license, if found competent; and, for granting said license, his fee is one dollar, to be paid by the person receiving the license.

Under the general law, the Commissioner examines, and the Board gives authority to grant the license. Under the section we are considering, the whole matter of examination and granting of license is in the hands of the Commissioner. Under the general law, there is no fee for granting license. Under this section, the Commissioner receives a fee.

49. The fifth section provides that the County School Commissioner shall receive a commission of two and a half per cent. on all moneys paid out by him. The fourth section, as we have just seen, gives him a fee for granting license. The law does not say that the per centage on moneys paid out, and the fees for license, shall be the *only* compensation to which the Commissioner shall be entitled. I hold, therefore, that the provisions of the general school law in relation to the compensation of this officer are still in force in the counties under this local law.

50. Section 6 makes it the duty of the County Commissioner to lay before the grand jury, at each term of the Superior Court of his county, a plain and correct statement of his actings and doings since his last statement, or return, and also to make his return to the State School Commissioner, as now required by law.

The requirement of this act, in relation to the statement to be made to the grand jury, is very similar to that of the general law of February 21, 1877. The main difference is, that this Act requires a statement to be made at each term of the Court, while that confines the duty to the spring term of the Court.

51. I must remark, in conclusion, that Boards and Commissioners, in the counties under this local act, should remember that the repealing section repeals only such laws, and parts of laws, as conflict with the provisions of the Act. All the provisions of the general school laws, which do not so conflict, are in force in the counties under this local law.

52. The school fund for 1878 will not differ materially from that of 1877. The sources from which the fund is derived remain unchanged. I make this statement in obedience to the requirement contained in sec. 28, act of August 23, 1872.

53. I give the foregoing instructions to all and singular, the subordinate school officers of the State of Georgia, for their guidance in discharging their official duties for the year 1878; and I hereby enjoin upon them obedience to the same.

GUSTAVUS J. ORR,  
*State School Commissioner.*



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